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may be started again without a new application and a new determination of disability.

§ 220.20 Notice that an annuitant is no longer disabled.

The regulation explaining the Board's responsibilities in notifying the annuitant, and the annuitant's rights when the disability annuity is stopped is found in § 220.183.

§ 220.21 Initial evaluation of a previous occupational disability.

(a) In some cases, the Board may determine that a claimant is not currently disabled for work in his or her regular occupation but was previously disabled for a specified period of time in the past. This can occur when—

(1) The disability application was filed before the claimant's occupational disability ended, but the Board did not make the initial determination of occupational disability until after the claimant's disability ended; or

(2) The disability application was filed after the claimant's occupational disability ended but no later than the 12th month after the month the disability ended.

(b) When evaluating a claim for a previous occupational disability, the Board follows the steps in § 220.13 to determine whether an occupational disability existed, and follows the steps in §§ 220.16 and 220.17 to determine when the occupational disability ended.

Example 1: The claimant sustained multiple fractures to his left leg in an automobile accident which occurred on June 16, 1982. For a period of 18 months following the accident the claimant underwent 2 surgical procedures which restored the functional use of his leg. After a recovery period following the last surgery, the claimant returned to his regular railroad job on February 1, 1984. The claimant, although fully recovered medically and regularly employed, filed an application on December 3, 1984 for a determination of occupational disability for the period June 16, 1982 through January 31, 1984. The Board reviewed his claim in January 1985 and determined that he was occupationally disabled for the prior period which began on June 16, 1982 and continued through January 31, 1984. A disability annuity is payable to the employee only for the period December 1, 1983 through January 31, 1984. An annuity may not begin any earlier than the 1st day of the 12th month before the month in which the

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application was filed. (See part 218 of this chapter for the rules on when an annuity may begin).

Example 2: The claimant is occupationally disabled using the same medical facts disclosed above, beginning June 16, 1982 (the date of the automobile accident). The claimant files an application for an occupational disability annuity, dated December 1, 1983. However, as of February 1, 1984, and before the Board makes a disability determination, the claimant returns to his regular railroad job and is no longer considered occupationally disabled. The Board reviews the claimant's application in May of 1984 and finds him occupationally disabled for the period June 16, 1982 through January 31, 1984. A disability annuity is payable to the employee from December 1, 1982 through January 31, 1984. (See part 218 of this chapter for the rules on when an annuity may begin).

Subpart D—Disability Under the Railroad Retirement Act for Any Regular Employment

§ 220.25 General.

The definition and discussion of disability for any regular employment are found in §§ 220.26 through 220.184.

§ 220.26 Disability for any regular employment, defined.

An employee, widow(er), or child is disabled for any regular employment if he or she is unable to do any substantial gainful activity because of a medically determinable physical or mental impairment which meets the duration requirement defined in § 220.28. In the case of a widow(er), the permanent physical or mental impairment must have prevented work in any regular employment before the end of a specific period (see § 220.30). In the case of a child, the permanent physical or mental impairment must have prevented work in any regular employment since before age 22. To meet this definition of disability, a claimant must have a severe impairment, which makes him or her unable to do any previous work or other substantial gainful activity which exists in the national economy. To determine whether a claimant is able to do any other work, the Board considers a claimant's residual functional capacity, age, education and work experience. See § 220.100 for

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the process by which the Board evaluates disability for any regular employment. This process applies to employees, widow(er)s, or children who apply for annuities based on disability for any regular employment. This process does not apply to surviving divorced spouses or remarried widow(er)s who apply for annuities based on disability.

§ 220.27 What is needed to show an impairment.

A physical or mental impairment must result from anatomical, physiological, or psychological abnormalities which can be shown by medically acceptable clinical and laboratory diagnostic techniques. A physical or mental impairment must be established by medical evidence consisting of signs, symptoms, and laboratory findings, not only by the claimant's statement of symptoms. (See § 220.113 for further information about what is meant by symptoms, signs, and laboratory findings.) (See also § 220.112 for the effect of a medical opinion about whether or not a claimant is disabled.)

§ 220.28 How long the impairment must last.

Unless the claimant's impairment is expected to result in death, it must have lasted or must be expected to last for a continuous period of at least 12 months. This is known as the duration requirement.

§ 220.29 Work that is considered substantial gainful activity.

Work is considered to be substantial gainful activity if it—

(a) Involves doing significant and productive physical or mental duties; and

(b) Is done or is intended to be done for pay or profit. (See § 220.141 for a detailed explanation of what is substantial gainful activity.)

§ 220.30 Special period required for eligibility of widow(er)s.

In order to be found disabled for any regular employment, a widow(er) must have a permanent physical or mental impairment which prevented work in any regular employment since before the end of a specific period as defined in part 216 of this chapter.

Subpart E—Disability Determinations Governed by the Regulations of the Social Security Administration

§ 220.35 Introduction.

In addition to its authority to decide whether a claimant is disabled under the Railroad Retirement Act, the Board has authority in certain instances to decide whether a claimant is disabled as that term is defined in the Social Security Act. In making these decisions the Board must apply the regulations of the Social Security Administration in the same manner as does the Secretary of Health and Human Services in making disability decisions under the Social Security Act. Regulations of the Social Security Administration concerning disability are found at part 404, subpart P of this title.

§ 220.36 Period of disability.

(a) *General.* In order to receive an annuity based upon a disability, an employee must be found disabled under the Railroad Retirement Act. If an employee is found disabled under the Railroad Retirement Act, the Board will determine whether he is disabled under the Social Security Act to qualify for a period of disability as defined in that Act.

(b) *Period of disability—(1) Definition and effect.* A period of disability is a continuous period of time during which an employee is disabled as that term is defined in § 404.1505 of this title. A period of disability established by the Board—

(i) Preserves the disabled employee's earnings record as it is when the period begins;

(ii) Protects the insured status required for entitlement to social security overall minimum;

(iii) May cause an increase in the rate of an employee, spouse, or survivor annuity; or

(iv) May permit a disabled employee to receive Medicare benefits in addition to an annuity under the Railroad Retirement Act.

(2) *Effect on benefits.* The establishment of a period of disability for the employee will never cause a denial or